The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, to whom was referred the Bill authorizing Berkshire Community College to lease certain land to the Pittsfield Young Men's Christian Association (Senate, No. 2114, amended) reports recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4352.

For the Committee,

Charles A. Murphy.

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

The Committee on Ways and Means recommends that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

1 **SECTION 1.** Notwithstanding sections 40F to 40J of chapter 7 of the General Laws or 2 any general or special law to the contrary, the commissioner of the division of capital asset 3 management and maintenance may, in consultation with the department of higher education and 4 Berkshire Community College, enter into a lease or other agreement with the Pittsfield Young Men's Christian Association for the purpose of facilitating the operation and maintenance of a 5 6 summer community recreational program for a term, including extensions, not to exceed 20 7 years and pursuant to such additional terms and conditions as the commissioner may prescribe in 8 consultation with the department of higher education, of certain facilities at the college's campus 9 in the city of Pittsfield; provided, however, that said lease shall provide that in the event of educational necessity, the lease may be terminated by the commonwealth upon 30 days written 10 11 notice from the commissioner of the division of capital asset management and maintenance to 12 the Pittsfield Young Men's Christian Association. The exact boundary of the parcel to be leased 13 or otherwise used by the Pittsfield Young Men's Christian Association shall be determined prior 14 to such conveyance by a survey commissioned by the commissioner in consultation with the department of higher education and the college. The consideration for said lease shall be the full 15 and fair market value as determined by the commissioner of the division of capital asset 16 17 management and maintenance pursuant to an independent professional appraisal. 18 **SECTION 2.** Notwithstanding any general or special law to the contrary, the parcel shall be 19 leased subject to a restriction limiting the use of the parcel to community recreational purposes. 20 If at any time the property ceases to be used for the purposes described in this act, the 21 commissioner of the division of capital asset management and maintenance shall give written

- 22 notice to the Pittsfield Young Men's Christian Association of the unauthorized use. The Pittsfield
- 23 Young Men's Christian Association shall, upon receipt of the notice, have 30 days to respond
- 24 and a reasonable time to establish an authorized use of the parcel. If an authorized use of the
- 25 parcel is not thereafter established, the lease of the parcel, upon the recording of a notice thereof
- by the commissioner in the appropriate registry of deeds, shall terminate and any further
- 27 disposition of the property shall be subject to chapter 7 of the General Laws.
- 28 **SECTION 3.** Any lease or other agreement entered into pursuant to this act shall be on such
- 29 terms and conditions as the division of capital asset management and maintenance, in
- 30 consultation with the department of higher education and Berkshire Community College, deems
- 31 appropriate. Any such lease or other agreement shall contain a provision that requires the
- 32 Pittsfield Young Men's Christian Association to carry comprehensive general liability insurance
- with the commonwealth named as a co-insured, to protect the commonwealth against all personal
- injury or property damage on the facilities during the term of the lease or other agreement. The
- 35 Pittsfield Young Men's Christian Association shall indemnify and hold the commonwealth and
- 36 Berkshire Community College harmless for all personal injury or property damage caused or
- 37 suffered by the Pittsfield Young Men's Christian Association, its clients or agents.
- 38 **SECTION 4.** Notwithstanding any general or special law to the contrary, the inspector general
- shall review and approve the appraisal and the review shall include an examination of the
- 40 methodology utilized for the appraisal. Within 30 days of receiving the appraisal, the inspector
- 41 general shall prepare a report of his review and file the report with the commissioner of the
- 42 division of capital asset management and maintenance. Within 15 days of receiving the inspector
- 43 general's report but no later than 15 days before the execution of any agreement or other
- 44 document relating to the lease, the commissioner shall submit such report to the house and senate
- 45 committees on ways and means and the joint committee on state administration and regulatory
- 46 oversight.
- 47 **SECTION 5.** Notwithstanding any general or special law to the contrary, the Pittsfield Young
- 48 Men's Christian Association shall be responsible for all costs and expenses, including, but not
- 49 limited to, costs associated with any engineering, surveys, appraisals and deed preparation
- related to the transfers and conveyances authorized pursuant to this act as such costs may be

- 51 determined by the commissioner of the division of capital asset management and maintenance.
- 52 Upon conveyance of the parcel, the Pittsfield Young Men's Christian Association shall be solely
- responsible for all costs, liabilities and expenses of any nature and kind for the development,
- maintenance, use and operation of the parcel.
- 55 **SECTION 6.** The design of and plans and specifications for any buildings or other
- 56 improvements to be constructed by the Pittsfield Young Men's Christian Association shall be
- 57 subject to the review and approval of the division of capital asset management and maintenance
- and Berkshire Community College.